IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 431 of 1992

For Approval and Signature:

HON'BLE MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PARMAR RAMESHBHAI SOMABHAI

Versus

PERSONNEL OFFICER,(E)

Appearance:

1. Special Civil Application No. 431 of 1992

MR BM MANGUKIYA for Petitioner No. 1

MR MD PANDYA for Respondent No. 1-4

GOVERNMENT PLEADER for Respondent No. 1

RULE SERVED for Respondent No. 5

CORAM : HON'BLE MR.JUSTICE K.A.PUJ

Date of decision: 07/11/2003

ORAL JUDGEMENT

The present petition is filed under Article 226 of the Constitution of India praying for writ of mandamus or any other appropriate writ, order or direction to

respondents No. 1 to 4 authorities to send the name of the petitioner to respondent No.5 so as to enable the petitioner to appear in the examination that may be held and conducted by respondent No.5.

2. It is the case of the petitioer that the respondent authorities had called for applications for Apprentices some where in the year 1983 by means of an advertisement. In response to the said advertisement, the petitioner had filled-in the form for the apprenticeship on the post of Commercial Clerk. The petitioner was eligible for the said training as the petitioner had passed Final B.Com. examination held by the Gujarat University in April 1983.

3. It is further stated in the petition that in response to the application made by the petitioner he was selected as an Apprenticeship and he was actually taken in training from 13th October 1983. The petitioner was posted in the Office of Executive Engineer, Kadi Division of Gujarat Electricity Board. The petitioner has completed his one year apprenticeship training successfully on 12th October 1984 and the certificate to that effect was also issued in favour of the petitioner. It is further stated that as per the practice being followed by the respondents, names of the Apprentices are to be sent to respondent No.5 so that the respondent No.5 can take examination of the persons who have successfully completed their apprenticeship training. The petitioner was not aware about the fact that the petitioner became entitled for appointment only after the petitioner was declared successfully and passed in the examination held and conducted by respondent No.5. The office of respondents No. 1 to 4 had not sent the name of the petitioner along with other 4 persons to respondent No.5 and therefore respondent No.5 did not take any examination of the petitioner along with other 4 persons. It is further stated that the petitioner had filled-in the requisite contact form on 27th April 1984 in the office in which he was working. The said contact form was sent by outward No. 1419 on 27th April 1984 to the Executive Engineer, Kadi Division for forwarding petitioner's name to respondent No.5. However, for reasons known to the respondents, the petitioner's name did not reach to respondent No.5 and hence the petitioner was not called for appearing in the examination to be held by respondent No.5.

4. It is further stated that in cases of some other persons, the respondents No. 1 to 4 had given appointments to them without following procedure required

to be followed for the apprentices who completed the training and test examination to be held and conducted by respondent No.1. It is further stated that some persons were also given appointments who are juniors to the petitioner in training. It is further stated that despite several representations made by the petitioner to the respondent authorities the name of the petitioner was not sent to the respondents. Not sending the name of the petitioner to the said respondents No. 1 to 4 for examination and consequentially depriving the petitioner of the job was absolutely illegal and arbitrary and also violative of the provisions contained in Article 14 and 16 of the Constitution of India.

5. Mr. BM Mangukia, ld. advocate appearing for the petitioner has submitted that by not sending the name of the petitioner to the respondent No.5 though the petitioner was eligible in all respects, the petitioner was deprived of his job and hence this Court should interfere in the matter and direct the respondents No. 1 to 4 to send the petitioner's name to respondent No.5 so as to enable the petitioner to appear in the examination and get the job.

6. Mr. MD Pandya, ld. advocate appearing for the respondents No. 1 to 4 submits that he has already made the statement before this Court earlier to the effect that if the respondent No.5 permits the petitioner to appear in the examination, the respondent Board has no objection. In this connection, he has placed on record the letter dated 8th November 2002 received from the Board wherein it is stated that an opportunity was given to all those persons who have undergone the training for Commercial Trade Apprentice but have not passed RI training examination and who have passed RI Training but have crossed the age bar, and for them written examination was held on 31.10.1999 and oral examination was held on 19.11.1999. The petitioner was also called for in the oral interview, however, he could not succeed in the said oral examination. He has further submitted that the respondent Board has issued the circular on 6.7.2002 wherein it is stated that the list of all these apprentices who have undergone the Commercial Trade Apprentice training prior to 1988 and whose names are there in the waiting list of Regional Office, is decided to be scrapped. In this view of the matter, even if the respondent No.5 grants permission to the petitioner to appear in the RI training examination, the petitioner could not be absorbed in the appointment on the basis of the aforesaid training. Mr. Pandya has submitted that even if the petitioner's name was not forwarded at the

given point of time the petitioner was granted an opportunity to appear in the written as well as oral examination and since the petitioner could not succeed in the said examination, no appointment was given to the petitioner. He has therefore submitted that the present petition ventilating the grievance of the petitioner should not be entertained by this Court in view of the subsequent development.

7. After having heard the ld. advocates appearing for the respective parties and after having considered the communication received by Mr. Pandya from the Board, this Court is of the view that the prayer made by the petitioner in the present petition could not be granted as the only grievance of the petitioner is that his name was not forwarded and because of that he could not appear in the examination which had resulted into deprivation of job. It can be seen from the subsequent development that the lapse on the part of the respondents No. 1 to 4 was subsequently cured by giving an opportunity to the petitioner to appear in the examination of written as well as oral test for the purpose of making employment of Meter Reader in the respondent Board. Unfortunately, the petitioner could not succeed in the said examination. After this, the entire list was scrapped by the respondent Board. In this view of the matter, simply because name was not forwarded at the relevant point of time, it cannot be said that the petitioner was deprived of his job. Even after forwarding the name, the petitioner was required to clear the examination and only thereafter he would get the employment.

8. Having regard to the facts and circumstances of the case and having regard to the opportunity given to the petitioner, this Court is of the view that no injustice is done to the petitioner. Even otherwise, there is no right vested in the petitioner to ask for the appointment. The petition is, therefore, dismissed. Rule is discharged with no order as to costs.

rmr. [K.A. Puj, J.]